



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 15, 2002, 8:00 p.m.**

MEETING

Mayor Cooper called the Meeting of the City Council to order at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Rodriquez.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PROCLAMATION: Red Ribbon Week

Mayor Cooper announced that the National Red Ribbon Campaign would be celebrated October 23rd through October 31, 2002. This year's campaign theme is "Freedom is Drug Free, Plant the Promise." This year marks the 17th anniversary of National Red Ribbon Week. The Hayward Police Department and Neighborhood Alert will be sponsoring an Anti-Drug Caravan, a symbolic protest against drugs and violence in our community, on Monday, October 21st, 5:00 p.m., at the Hayward Police Department. Decorate your car with red ribbon and caravan through Hayward neighborhoods. Mayor Cooper encouraged all citizens, public and private businesses, media, religious and educational institutions to join in drug awareness activities and wear red ribbons throughout this week in support of a drug free America. She presented the proclamation to Maureen Bessette, representing the Neighborhood Alert program, who thanked Council and the Hayward Police Department for its support. She added her appreciation and invited everyone to join the caravan.

Chabot College Puente Project 20th Anniversary

Mayor Cooper presented a certificate of acknowledgement to Ramon Parada, Puente Project Representative. The Puente Project is a national-award winning program that for over 20 years has created an innovative educational approach for academic achievement among California's most underserved student populations. The Project's mission is to increase the number of such students who enroll in four-year colleges and universities, earn college degrees and return to the community as mentors and leaders to future generations. Begun in 1981 at Chabot Community College, the program has since expanded to 33 high schools and 52 community colleges statewide. Puente trains school and college faculty to implement a program of rigorous instruction, focused academic counseling, and mentoring by members of the community. In 1998, the program won the prestigious "Innovations in American Government" award, sponsored by the Ford Foundation, the Council for Excellence in Government, and Harvard University. The Puente Project is co-sponsored by the University of California and the California Community Colleges. Mr. Parada accepted the certificate on behalf of the Puente Project and thanked the Mayor and Council. He

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noted that Puente has served many Hayward citizens and families and introduced some of the Puente graduates as well as described some of accomplishments of this program.

PUBLIC COMMENTS

Linda Pratt, representing COMPREE, described the efforts of a coalition of agencies to develop an alcohol policy for the Hayward school system.

Bruce Fox, as one of the founders of the coalition, described the community process and invited all to an activity on Monday, December 9, 11:30 a.m. at the Hayward Police Department.

Jason Moreno showed photos of newspaper racks with graffiti that were secured to utility poles and asked that staff contact him for further information.

Barbara Swarr announced an upcoming redevelopment seminar. She also noted a library book sale, and complimented Professor Zermeno and the Puente staff for its excellent service to the community. Lastly, she announced that the Hayward Alliance is also meeting this weekend to discuss Measure U.

Nancy Soto thanked the Council for the recognition of the Puente Project.

CONSENT

1. Approval of Minutes of the City Council Meeting of October 1, 2002

It was moved by Council Member Ward, seconded by Council Member Hilson, and unanimously carried to approve the minutes of the City Council Meeting of October 1, 2002.

2. Approval of Minutes of the City Council Meeting of October 8, 2002

It was moved by Council Member Ward, seconded by Council Member Hilson, and unanimously carried to approve the minutes of the City Council Meeting of October 8, 2002.

3. Resignation of Patrick J. Morgan from the Citizens Advisory Commission

Staff report submitted by City Clerk Reyes, dated October 15, 2002, was filed.

It was moved by Council Member Ward, seconded by Council Member Hilson, and unanimously carried to adopt the following:

Resolution 02-154, "Resolution Accepting Written Resignation of Patrick J. Morgan From the Citizens Advisory Commission"



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LEGISLATIVE BUSINESS

4. Consideration of Tree Preservation Ordinance

Staff report submitted by Landscape Architect Carranza, dated October 15, 2002, was filed.

Planning Manager Anderly made the presentation showing the various sizes of tree limbs that would require permits. She noted that Certified Arborists, trained in accordance to established standards by the International Arboriculture, could obtain an annual permit for tree pruning within the City. Landscape Contractors, under the supervision of a permitted arborist would not need to obtain an additional permit. Landscape contractors without that supervision will be required to obtain a permit for pruning and tree removal on a per parcel basis. She then noted that tree removal permits would remain on a parcel-by-parcel basis.

In response to questions from Council Member Dowling, staff defined routine tree maintenance as the removal of cross-branches, and smaller branches one-inch or under that do not hinder the shape or natural character of the tree. She confirmed that the conditions do affect street trees. Landscape Architect Carranza commented that trees that the homeowner plants would not be protected. The permit process is a one-page process.

Council Member Henson discussed the standard being used. Landscape Architect Carranza emphasized that the pruning would follow the line of the trees. He also asked what part of the Street Tree Program would be affected by the Ordinance; particularly those that break through the sidewalks and are determined should be removed.

City Manager Armas explained that there are really two practices that come into play. He said this one deals with private property. The Street trees situation is one that staff deals with on a regular basis. He noted that when necessary to remove them, staff works with the homeowner to find a suitable replacement.

Council Member Jimenez suggested that the public be informed through information that could be inserted with water billings.

Council Member Hilson asked for further clarification regarding Section 10-15.11 and Section 10-15.13. He expressed the opinion that they were contradictory sections.

City Manager Armas suggested that Section 10-15.13 include a statement that says, "Consistent with 10-15.11..."

Council Member Hilson asked for an explanation of the issued permit and asked how the City can be assured that the utility companies will trim properly. Staff noted that utility companies would be

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issued annual permits, but that with non-compliance, the City will resort to a permit per-parcel permit process. He then described the problems regarding the revocation of the permit, specifically Section 10-15.30, "The landscape architect may revoke the permit upon the finding of non-compliance." He then wondered why there was no restriction on when violators could apply for a yearly permit once again. As it reads, they can apply almost immediately after revocation.

City Manager Armas said staff would give Mr. Hilson's comments some thought.

Council Member Ward suggested that an additional reference to the Street Tree Ordinance be included in this ordinance as well for further clarification.

Council Member Ward asked staff to provide the potential cost to administer this ordinance. It was noted that the City has one landscape architect and one staff support for this effort. He expressed concern that additional staff impositions may incur as a result of this ordinance as staff may need to survey work throughout the City. He asked what the result will be when staff is working on public works projects.

Mayor Cooper opened the public hearing at 9:04 p.m.

Scott Raty, representing the Chamber of Commerce, commented that this ordinance is to address those who abuse tree trimming. He described still further concerns and issues that need to be addressed, including the one-inch diameter requirement. He commented that researching conditions of approval of homes from 1977 would be necessary. He noted that sensitivity and balance are needed by the City in administering the Ordinance. He asked for the elimination of the one-inch diameter requirement.

Council Member Ward asked about the requirement.

City Manager Armas responded that the measurement came about as a result of looking at how long it might take to allow trees to grow to their full form. He added that a higher threshold might be in the interest of the property owner to prevent this from occurring.

Landscape Architect Carranza said that the ISA standards say to make a decision. Staff arrived at the one inch standard. However, she indicated that with the yearly permit, a certified arborist would be allowed to remove any size branch. The ordinance is still leaving it up to the professional to determine the size of branches to be removed. She noted that what is being protected are the trees and branches being cut by non-certified arborists who might not have the training or the proper knowledge of pruning.

George Pacheco, representing Pacheco Brothers, commended staff on the development of the ordinance. He felt that the one-inch requirement was too small. He said he thought the permit fee should be incorporated into the license fee.

City Manager Armas emphasized that a business like Pacheco Brothers would be required to come in only once a year for all of their jobs in Hayward, assuming there was a certified arborist on staff.



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Bill Gardner supervisor at HARD, certified arborist, applauded staff for their hard work. He noted that the City of Hayward employs three certified arborists. He noted that HARD has three certified arborists as well. He said this ordinance would make a difference.

Council Member Henson asked him to describe standards used by HARD in the park areas and if they were similar to those in this ordinance.

Mr. Gardner briefly explained the established standards and indicated that one-inch size should not be a factor. He felt that homeowners do not usually plan ahead when selecting a tree for their property.

Council Member Ward expressed concern on the 'exceptions' of this City as compared to other cities in the area and how that will impact tree-trimming companies doing work in Hayward.

City Manager Armas explained that there are several landscape companies who work regularly within the City of Hayward. He said staff would make sure they are apprised of any information they may need to work within the guidelines and requirements of the ordinance.

Jason Moreno discussed the foliage from trees blocking the view of the sign at Centennial Hall.

Mayor Cooper closed the public hearing at 9:22 p.m.

Council Member Jimenez moved to hold the ordinance over for a month until the general public is notified. The motion died for lack of a second.

City Manager Armas explained that the City Council had held a Work Session and the Planning Commission held a hearing on the ordinance. Both of which were publicly noticed. He added that there had been a press story as well.

Council Member Hilson moved, seconded by Council Member Rodriquez, to approve the staff recommendation to adopt the ordinance including the minor comments previously discussed. He commented that notifications had been made and further notifications will continue throughout the process.

Council Member Ward spoke to the motion and commended staff on its efforts. He emphasized that those businesses with a licensed arborist on staff will be allowed to purchase an annual permit. He added that he hoped the fee for the permit would not be too burdensome. He noted that it is critical to protect trees since they are an important part of the landscape in the community since they add value to properties. He noted that it is equally critical that single-family homeowners are exempt. He said Council and staff would work with the public to understand the implications of the ordinance.

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Council Member Henson commented on a Planning Commission suggestion of providing pamphlets as a part of the educational process to publicize this effort to outreach and educate the general public. He noted that Hayward is a Tree City USA award winner and he commented that pamphlets are available. He agreed with Council Member Ward that for business this is fair and a good compromise. He said he still had an issue about how this will be applied during drought conditions and what impacts will occur. He added that he looked forward to the under grounding of utilities throughout the City of Hayward.

Mayor Cooper said she would not be supporting the motion. Businesses are already responsible and this ordinance will impact them with extra paperwork, certification issues, as well as extra work in determining branch size. She felt that the City has not pursued those who do not adhere to the original conditions of approval as approved by the City. She commented that the City of Hayward might be partially responsible for the trimming in the City since the policy is severe pruning every 10-12 years.

Commissioner Dowling spoke in favor of the ordinance. He commented that staff and the business community have spent a long time trying to find a compromise everyone can live with. This issue is trying to deal with tree trimming businesses that do not have certified arborists on staff. This ordinance is targeting those businesses that do not have professional arborists on staff. This should help with streetscape issues we see throughout the City.

Council Member Jimenez said he would not be supporting the motion since he believes the general public was not adequately informed.

City Manager Armas indicated that the landscape architect would be scheduling classes to work with homeowners and informing them of the ramifications of the ordinance.

It was moved by Council Member Hilson, seconded by Council Member Rodriquez, and carried by the following roll call vote to introduce the ordinance and adopt the resolution as follows:

Introduce Ordinance 02-__, “An Ordinance Repealing Article 15 of Chapter 10 of the Hayward Municipal Code and Enacting a New Ordinance for Tree Preservation”

Resolution 02-155, “Resolution Approving the Negative Declaration for the Tree Preservation Ordinance and Confirming that it has been Completed in Compliance with the California Environmental Quality Act”

AYES: Council Members Jimenez, Hilson, Rodriquez,
Ward, Dowling, Henson
NOES: Council Member Jimenez



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MAYOR Cooper

ABSENT: None

ABSTAINED: None

5. Consideration of Campaign Contribution Limits

Staff report submitted by City Attorney O'Toole, dated October 15, 2002, was filed.

City Attorney O'Toole explained the variations of the proposed ordinance. He said this was a re-codification of the 1997 Expenditure and Campaign limit that was approved by the Council but was invalidated by the Court challenge to Proposition 208. He then described the limits built into the ordinance.

Mayor Cooper opened the public hearing at 9:38 p.m.

Bill Quirk said that while this is not everything asked for by the Citizen's Group CASH, it is an adequate limitation.

Mayor Cooper closed the public hearing at 9:40 p.m.

Council Member Henson moved the ordinance, seconded by Council Member Hilson, who asked for a friendly amendment to change the "Whereas" clauses to read:

"Whereas, monetary contributions to political campaigns are a legitimate form of participation in the political process; and whereas, the rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger amounts of money; Whereas, the Council finds that the adoption of a campaign finance reform ordinance will help ensure that individuals and interest groups will have a fair and equitable opportunity to participate in the elective and governmental processes and minimize the appearance of impropriety."

Council Member Dowling said he would not be supporting the ordinance because he did not believe it was real campaign reform.

Council Member Henson said he would be supporting the ordinance because he believed it was realistic campaign reform and dealt with the realities of campaigning in such a diverse city like Hayward.

Council Member Rodriguez said she would vote against the ordinance because she thought \$50,000 is too much and not necessary for a campaign within the City of Hayward. She indicated that grass roots campaigning and a lot of walking is necessary to win elections in Hayward. She said there is

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no reason for spending such exorbitant sums of money in city elections. She noted that many people in this community who could serve, don't because they cannot raise that much money.

It was moved by Council Member Henson, seconded by Council Member Hilson, and carried to introduce the ordinance and adopt the resolution as follows:

Introduce Ordinance 02-__, "An Ordinance Amending Chapter 2 Article 13 of the Hayward Municipal Code Relating to the Establishment of Contribution Limitations and a Voluntary Campaign Expenditure Limit for Elections to City Offices"

AYES: Council Members Jimenez, Hilson, Ward, Henson

NOES: Council Member Dowling, Rodriquez

MAYOR Cooper

ABSENT: None

ABSTAINED: None

6. Proposition 46: Housing and Emergency Shelter Trust Fund Act of 2002

Staff report submitted by City Attorney O'Toole, dated October 15, 2002, was filed.

City Manager Armas explained that Council Member Hilson requested that this item appear on the agenda. He explained that the voters on November 5, 2002 ballot will have the option on whether or not they would like the State to issue General Obligation bonds in the amount of \$2.1 billion to fund various housing programs.

Council Member Hilson noted that this funding creates a trust fund to provide money for shelters for battered women, clean and safe housing for low-income senior citizens, emergency shelters for homeless families housing, for social services for mentally ill, repairs and accessibility improvements to apartments for low-income families and handicapped citizens, as well as military veteran homeownership assistance, and security improvements and repairs to existing emergency shelters. He urged Council to support this proposition by joining other cities in support of Proposition 46.

Council Member Henson spoke about the down payment assistance for school personnel and indicated that it would be an attractive incentive for teachers.

Council Member Ward asked his Council colleagues to review proposed development in the City of Hayward, in order to take action consistent with this vote.

Council Member Jimenez was concerned with the taxpayers' burden.

Council Member Hilson noted there would be no new taxes. He said the bond repayment would be paid from existing State funds.



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Mayor Cooper opened and closed the public opportunity to speak at 9:58 p.m.

It was moved by Council Member Hilson, seconded by Council Member Henson, and unanimously carried to urge voters to support Proposition 46, the Housing and Emergency Shelter Trust Fund Act of 2002, on November 5, 2002.

COUNCIL REPORTS

Council Member Henson reported on his recent attendance to a National League of Cities Public Safety Committee meeting in Everett, Washington. He also attended a session in Washington, D.C., to discuss homeland security. He described various funding cuts to programs related to assisting abused women and in juvenile justice programs, as well as additional funding that will provide emergency preparedness planning grants and aid for community-oriented policing programs. He reported that FEMA has created funding for citizens corps to further such programs as neighborhood alert and that this City can apply for grants by November 8. Lastly, he displayed a red-arrowed bumper sticker that read, "Move right for sirens and lights," which he suggested could be used in Hayward.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:05 p.m., with the announcement that next week the City Council will attend a special community meeting at Tyrell School, and will conduct its next regularly scheduled Council meeting on Tuesday, October 29, 2002.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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